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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,294	04/23/2001	Toshiaki Watanabe	206276US-2	2996
22850	7590	08/15/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			YE, LIN	
		ART UNIT	PAPER NUMBER	2615

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/839,294	WATANABE, TOSHIAKI	
	Examiner Lin Ye	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 March 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,9 and 10 is/are rejected.  
 7) Claim(s) 2-8 and 11 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Arguments***

1. This application has been transferred to a new examiner. The new examiner carefully reviewed applicant's arguments with respect to amended claims 1, 9 and 10 filed on 3/10/05. The claims 1, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okajima et al. U.S. Patent 6,636,262 in view of Takei U.S. Patent 5,353,058.

Referring to claim 1, the Okajima reference discloses in Figures 1-3, 5 and 11, an exposure control apparatus configured to determine an exposure value based on a luminance of a photographic screen and to perform exposure control based on a determined exposure value, said exposure control apparatus (See Col. 3, lines 30-40) comprising: an area generating unit (region dividing circuit 81) which divides the photographic screen into a predetermined number of areas (six regions A1 to A6, see Figure 5 and Col. 3, lines 65-67); a deciding unit (e.g., the luminance level detecting circuit 911 and comparator 912 as deciding

unit) which decides, for each area generated by said area generating unit, whether a main subject having a luminance higher than a predetermined luminance threshold exists within the areas (e.g., detecting the luminance level of each area of a picture plane, see whether any luminance level is larger than the threshold value; and it should noted the main subject is usually in the focus areas has a high frequency component or central areas of image plane, See Col. 5, lines 40-60); an luminance calculating unit (integration circuit 96) which calculates an luminance in the area generated by the area generating unit according to the decision result by said deciding unit (e.g., prohibiting the luminance signal from being output if luminance level is larger than the threshold value, so that integration of the high frequency component of region as main subject region is selectively excluded, see Col. 4, lines 51-65 and Col. 3, lines 55-61); and an exposure value determining unit (Iris control circuit 13) which determines an exposure value based on the luminance in the area calculated by said average luminance calculating unit (See Col. 3, lines 33-40 and Col. 6, lines 27-47). However, the Okajima reference does not explicitly show the luminance calculating unit calculates an **average luminance** in an area to represent the luminance in the area generated by the area generating unit.

The Takei reference teaches in Figures 4 and 6A, an automatic exposure control apparatus divides a frame into a plurality of areas and calculates an average luminance (e.g., Y1-Y10) in each area as a representative luminance (See Col. 6, lines 15-27). The Takei reference is evidence that one of ordinary skill in the art at the time to see more advantages the exposure control apparatus has an average luminance calculating unit configured to calculate an average luminance in an area so that the entire luminance level of image can be

evaluated more efficiently and accurately, and the apparatus performing appropriate exposure control by distinguishing between and sensing a back lighted state and an excessively front-light state (See Col. 3, lines 6-11). For that reason, it would have been obvious to one of ordinary skill in the art to modify the exposure control apparatus of Okajima ('262) by providing the luminance calculating unit calculates an **average luminance** in an area to represent the luminance in the area generated by the area generating unit as taught by Takei ('058).

***Allowable Subject Matter***

4. Claims 2-8 and 11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Please see the statement of reason for the indication of allowance from the last examiner's office action mailed on 12/15/2004.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until

after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a. Arai et al. U.S. 5,128,769 discloses an exposure control apparatus receives a video signal from image sensor and performs a divided brightness measuring for an image free.
  - b. Morris et al. U.S. 6,665,010 discloses an image includes groups of pixel sensing units and a control circuit.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Ye whose telephone number is (571) 272-7372. The examiner can normally be reached on Mon-Fri 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lin Ye  
March 29, 2005



DAVID L. OMETZ  
SUPERVISORY PATENT  
EXAMINER